

**From:** Kathleen Abernathy  
**To:** KAQUINN  
**Date:** Wed, Feb 12, 2003 2:51 PM  
**Subject:** Fwd: phone monopoly

From: Yvonne McCallister  
To: Yvonne McCallister  
Date: Wed, Feb 12, 2003 1:56 PM  
Subject: Proposed FCC Changes Cost Consumers

Message sent to the following recipients:

Senator Wyden  
Senator Smith  
Representative DeFazio  
Message text follows:

Yvonne McCallister  
3490 NW Norwood  
Corvallis, OR 97330-1796

February 12, 2003

[recipient address was inserted here]

[recipient name was inserted here],

The Federal Communications Commission is considering taking actions that will restrict consumer choice by deregulating local phone service.

Millions of Americans like me could have their phone service threatened if the local phone companies aren't required to allow competitors access to the market. I'm also concerned about the Commission's move to relieve all broadband Internet access facilities of open access obligations.

Both of these key decisions will limit my choices as a consumer by lessening competition, diminishing cost savings and threatening consumer protections. As a constituent, I urge you to support competition and open access for local phone service.

Sincerely,

Yvonne McCallister

**From:** beth@cehca.org  
**To:** Kathleen Abernathy, Michael Copps. KM KJMWEB. Mike Powell, Commissioner  
Adelstein, ncg5@pacbell.net  
**Date:** Wed, Feb 12, 2003 2:51 PM  
**Subject:** phone monopoly

Message from turn webmaster

1 main

Dear FCC Commissioner:  
Elimination of competitive access to  
wholesale phone networks  
will kill local competition and leave  
consumers with the worst of both  
worlds, an unregulated monopoly.  
Please reject the Bells self serving  
proposals to eliminate  
the UNE-Ps, which would pave the  
way for a bigger, meaner phone  
monopoly unrestrained by regulatory  
oversight.

Sincerely,

Generated by :  
EasyForm - Copyright 1999 by Thomas J. Delorme  
<http://getperl.virtualave.net>

**From:** Kathleen Abernathy  
**To:** KAQUINN  
**Date:** Wed, Feb 12, 2003 4:40 PM  
**Subject:** Fwd: preserve linesharing!!!

**From:** PiperAV8R@aol.com  
**To:** Kathleen Abernathy  
**Date:** Wed, Feb 12, 2003 4:40 PM  
**Subject:** preserve linesharing!!!

Subj: Preserve Linesharing!!!!  
Date: 2/12/2003 4:10:54 PM Eastern Standard Time  
From: PiperAV8R  
To: kjmweb@fcc.gov

What protection would the consumer have against being gouged by the **Bells** for DSL service. Cable is NOT a viable alternative in many markets, and where it is, they continue to raise rates while the service deteriorates. To preserve competition, you must maintain linesharing!

Robert H. Jackson, 202.414.9200 • [rjackson@reedsmith.com](mailto:rjackson@reedsmith.com)

Reed Smith

NName

DDate

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February 12, 2003

HandDelivery

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
c/o Vistrionix, Inc.  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, DC 20002

Re: CC Docket Nos. 01-338, 96-98 and 98-147

Dear Ms. Dortch:

On February 12, 2003, the attached letter was sent on behalf of Americatel Corporation to each of the five FCC Commissioners, with respect to the above-listed proceedings. An original and three copies of this letter are being provided for your use. Please place a copy of this letter in the record for each of these three dockets.

Please acknowledge the date and time of this filing with the Commission's stamp. An extra copy is being provided for such purpose. Please refer any questions

1301 K Street, N.W.  
Suite 1100 - East Tower  
Washington, D.C. 20005-3373  
202.414.9200  
Fax 202.414.9299

r e e d s m i t h . c o m

NName  
DDate  
Page 2

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to the undersigned. Thank you

Sincerely,

**Robert H. Jackson**  
**Counsel for Americatel Corporation**

*cc:* **Chairman Powell**  
**Commissioner Abernathy**  
**Commissioner Copps**  
**Commissioner Martin**  
**Commissioner Adelstein**

Chairman Powell, *et al.*  
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Robert H. Jackson. 202.414.9297. [rjackson@reedsmith.com](mailto:rjackson@reedsmith.com)

**Reed Smith**

February 12, 2003

***Ex Parte***

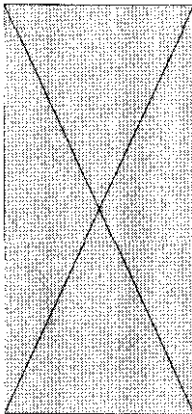
The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 – 12th Street, SW, Room 8 8201  
Washington, D.C. 20554

The Honorable Kathleen Q. Abemathy  
Commissioner  
Federal Communications Commission  
445 – 12th Street, SW, Room 8 B1 15  
Washington, D.C. 20554

The Honorable Michael J. Copps  
Commissioner  
Federal Communications Commission  
445 – 12th Street, SW, Room 8 A302  
Washington, D.C. 20554

The Honorable Kevin J. Martin  
Commissioner  
Federal Communications Commission  
445 – 12th Street, SW, Room 8 A204  
Washington, D.C. 20554

The Honorable Jonathan S. Adelstein  
Commissioner  
Federal Communications Commission  
445 – 12th Street, SW, Room 8 C302  
Washington, D.C. 20554



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**r e e d s m i t h . c o m**



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Reed Smith

Re: CC Docket Nos. 01-338, 96-98 and 98-147

Dear Commissioners:

Americatel Corporation ("Americatel"),<sup>1</sup> a long distance carrier specializing in serving Hispanic communities throughout the United States, urges the Federal Communications Commission ("FCC" or "Commission") to retain local switching **as** an available unbundled network element ("UNE") and maintain a telecommunications carrier's ability to combine the local switching UNE ("UNE Switching") with other UNEs, **as** unbundled network element platforms ("UNE-Ps"). A decision by the FCC to restrict access to UNEs will likely operate **as** the death knell for smaller long distance carriers, **as** well **as** for competitive local exchange carriers ("CLECs"). Additionally, such action would unlawfully eliminate the regulatory role that Congress intended for state public utility commissions ("PUCs"), which are in a much better position than the FCC to judge local market conditions and to make the factual determination **as** to whether access to a specific UNE meets the "necessary" and "impair" standards of Section 251(d) of the Communications Act of 1934, **as** amended ("34 Act").<sup>2</sup>

As Americatel demonstrates herein, the continued existence of a competitive long distance market depends on the contemporaneous existence of a competitive local market. To the extent that the FCC decides to eliminate access to UNE Switching and, therefore, UNE-Ps (or prevents PUCs from requiring such access), it is more likely than not that many CLECs will be unable to compete with the BOCs. Any significant lessening of local competition would, in turn, likely strengthen the hand of the BOCs in the market for long distance services **as** well, **as** BOCs will then be able to continue to resist the price cuts for basic local services which were expected by Congress when it rewrote the 34 Act in 1996. This will, in turn, enable the BOCs to begin

<sup>1</sup> Americatel, a Delaware corporation that is a subsidiary of ENTEL Chile, is a common carrier providing domestic and international telecommunications services. ENTEL Chile is the largest provider of long distance services in Chile. Americatel also operates as an Internet Service Provider ("ISP"). Americatel offers presubscribed (1+), dial-around, and prepaid long distance services, as well as private line and other high-speed services to its business customers. Americatel does not, at the present time, provide any local services to its customers, though it might need to do so in the future, especially if it finds itself unable to compete against the bundled local and long distance packages being offered at deeply discounted prices by the Bell Operating Companies ("BOCs") in some of the markets in which Americatel operates.

<sup>2</sup> 41 I.S.C. §251(c)

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**ReedSmith**

domination of the long distance market by offering deeply discounted toll rates (a largely deregulated service) until they gain a dominant market share in the long distance arena too. This then would likely permit the BOCs to return to their pre-1984 Divestiture status as dominant long distance carriers and, would, effectively, undo the gains to both consumers and the overall economy that have resulted over the past two decades from long distance competition.

The Telecommunications Act of 1996 ("96 Act")<sup>3</sup> fundamentally altered the telecommunications landscape that was established by implementation of the Modification of Final Judgment ("MFJ") in the Bell System antitrust case.<sup>4</sup> As the Commission is well aware, the MFJ removed the BOCs from the long distance market, separating that emerging competitive distance market from the BOCs' power and control over local exchange services. However, in exchange for new rules that forced open the local telephone monopolies, including the requirement under Section 251(c) of the 34 Act that BOCs offer unbundled access to network elements, the 96 Act permitted the BOCs to reenter the long distance market. The very clear Congressional intent behind the 96 Act was that no carrier would have sufficient economic power to dominate any market—long distance or local exchange.

While some level of local competition has developed since 1996, it is fair to say that local wireline competition has lagged well behind the development of wireless competition during that same time period. This can be seen from the contrast in prices for basic local wireline services, which have remained steady or even increased in some locations, to prices for basic wireless services, which have declined significantly and which generally include many features for which the BOCs charge extra. To the extent that the elimination of access to UNE Switching and UNE-Ps eliminates local competition from CLECs, the BOCs are more likely to dominate both the local service and long distance markets. Such a result is clearly not in the public interest and is contrary to both the 96 and 34 Acts.

Since the reentry of the BOCs into long distance services, we have seen them begin to bundle local and long distance services in a manner that indicates the extent of their continued economic power in the market. The BOCs are offering their customers the greatest savings on long distance calls only when they also purchase large packages of local services. For example, BellSouth offers its Florida customers its best international long distance rates only when those customers also subscribe to BellSouth's Complete Choice® plan or Area Plus®

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<sup>3</sup> Pub.L. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§151 *et seq.*

<sup>4</sup> *United States v. American Tel. and Tel. Co.*, 552 Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983).

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calling plans, which start at \$30 per month.<sup>5</sup> Fundamental economic principles would expect, to the extent that the Florida residential market were truly competitive and BellSouth desired to establish itself as a viable long distance carrier, it would offer discounted prices to all of its customers. However, the facts indicate that BellSouth must feel so confident of its local market position that it will offer its best long distance market-entry prices only to those residential customers who are willing to purchase large bundles of local services.

SBC Communications' ("SBC") confidence in its California local market position seems even stronger since it offers its California customers: "Special long distance rates for **SBC Total Connections** customers."<sup>6</sup> SBC's "Total Connections" bundle is priced at nearly \$90 per month.<sup>7</sup> While this service bundle includes Internet access, the price of nearly \$90 per month still greatly exceeds the national average monthly price for residential local service of **\$21.84** (October 2001).<sup>8</sup> One would expect that, to the extent that the BOCs were truly feeling strong competition for their residential customers, the BOCs would not only be offering low long distance prices to all of their customers, but also lowering the monthly price of basic local service and associated features.<sup>9</sup>

<sup>5</sup><http://www.bellsouth.com/apps/ipc/ICReqDispatcher?userEvent=getOfferDetailEvent&catId=117&offerGroupId=94> (visited February 11, 2003)

<sup>6</sup> [http://www02.sbc.com/Products\\_Services/Residential/Catalog/1,,13--1-3-13,00.html](http://www02.sbc.com/Products_Services/Residential/Catalog/1,,13--1-3-13,00.html) (visited February 11, 2003).

<sup>7</sup> See [http://www02.sbc.com/Products\\_Services/Residential/ProdInfo\\_1/,,856--1-3-13,00.html](http://www02.sbc.com/Products_Services/Residential/ProdInfo_1/,,856--1-3-13,00.html) (visited February 11, 2003). SBC is not alone in its bundling of its best long distance prices with large bundles of local services. For example, BellSouth offers its Florida customers its best international long distance rates only when those customers also subscribe to BellSouth's CompleteChoice® plan or Area Plus® calling plans, which start at \$30 per month.

<sup>8</sup> Wireless Competition Bureau, "Trends in Telephone Service," at 2 (rel. May 22, 2002).

<sup>9</sup> Contrast price trends in the wireless market. BellSouth and SBC's subsidiary, Cingular Wireless, offers its Miami customers packages that include domestic long distance, three-way calling, call forwarding, caller ID and call waiting services for as little as \$19.99 per month. [http://onlinestore.cingular.com/webapp/wcs/stores/servlet/ES\\_PROD\\_RATE?storeAlias=sfabmi&storeId=13051&catalogId=13051&langId=1&svcAreaId=MIC&ratePlanType=Local](http://onlinestore.cingular.com/webapp/wcs/stores/servlet/ES_PROD_RATE?storeAlias=sfabmi&storeId=13051&catalogId=13051&langId=1&svcAreaId=MIC&ratePlanType=Local) (visited February 11, 2003).

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What is even more disturbing to Americatel is that the BOCs seem to be using their economic power in the local market to "finance" low-ball long distance rates in order to gain market share, in addition to the inherent advantages they have amassed, such as huge customer databases, switching facilities, billing and other technical infrastructure. By conditioning ultra-low long distance prices on the purchase of local service packages that are priced above what many consumers normally spend for basic telephone services, the BOCs can effectively afford to finance their long distance price war without losing any overall revenues. For example, if a BOC can obtain \$40 in monthly revenue from a customer who selects a local service bundle in order to obtain the lowest long distance prices, rather than the more typical \$20-\$25 per month for more basic services, the same BOC can afford to discount its long distance prices by \$15-to-\$20 per month without experiencing any reduction in revenues.

Smaller long distance carriers simply cannot afford to compete with those prices and, in the absence of access to UNE-Ps from the BOCs, the smaller carriers cannot realistically enter the local market to offer their own local and long distance bundles or partner with CLECs for the same purpose. The BOCs' economic power in the local market is permitting them to offer long distance rates at levels that smaller long distance carriers, including most CLECs, cannot afford to offer over the long term. These BOC pricing practices, while perhaps not actually rising to the level of predatory pricing, reflect a threat to true long distance competition today and the potential BOC re-monopolization of the long distance market tomorrow.

Unless the Commission is willing to risk turning back the clock to the **1970s** in the telecommunications market and to go against the forward looking, global trend, it must ensure that local competition from CLECs is not snuffed out by the BOCs. As evidenced by the BOCs' service pricing policies discussed above, the local market is not fully competitive. Moreover, the termination of CLEC access to UNE Switching and UNE-Ps in most markets would likely destroy the small level of local competition that exists today and even enable the BOCs to regain control over long distance. Americatel, therefore, believes that the proper course is for the FCC to allow the PUCs to make the "necessary" and "impaired" determinations required by Section 251(d). It is they, after all, that are closest to the local market conditions that, according to the Court of Appeals, must be evaluated in making those determinations.

Very truly yours,

Robert H. Jackson  
Counsel for Americatel Corporation

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Reed Smith

From: okie rigney  
To: Commissioner Adelstein  
Date: Wed, Feb 12, 2003 8:01 AM  
Subject: A phone Man's view

Hello Mr. Adelstein. My name is Okie Rigney. I am a 36 year old Father of two, a Gulf War veteran, and a Cable Maint. Tech. with Verizon for 3 years now. I love My job and I don't want to lose it. As a technician that delivers and repairs the phone service I see first hand the unfairness of "CLECS. I often get the puzzled questioning from "CLECs customers when they see my van pull in their driveway with Verizon written on it instead of the name of some other supposed phone company. It is crazy how the "CLECs can be called a phone company but not do the actual work that makes a phone company a phone company. A billing company that gets to stand between us and the end customer siphoning money off of our investment, sweat, and service is how I see the "CLECs. And now I'm afraid that we are being bled to the point of jobs having to be cut. We've already lost several thousand in the North East. We are hurting. We have been cutting expenses everywhere, tools, overtime, new cable and even cable maintenance. Part of it is the economy but it doesn't help to lose 40% of revenue to each "CLEC line yet the work to service it isn't reduced. Everyone ask about DSL, but it is clear, we will not invest in it when a "CLEC can freeload on it. So everyone is going to Cable Vision Broadband which doesn't share it's facilities. Haven't you heard? Buying direct From the Factory eliminates the middle man and reduces the price?

Mr. Adelstein, I live in a trailer, never owned a car less than ten years old. I started this job at bottom pay and my family made sacrifices because in the end it would pay off. I thought of it as an investment. Now only a year From top pay and at the point where I should be able to buy a house. I see my investment going to some one else who will never know the fear of being 30 Feet high on pole secured only by two tiny hooks into the wood.

At Ground Zero it was real Phone Men and Women From Verizon that worked Feverishly around the clock restoring service. And now, some of those real Phone men and Women are jobless. Mr. Adelstein, at Ground Zero during the marathon to restore service, where were the "CLECs?

Okie Rigney  
Cable Maintenance Technician # 426  
Verizon 553 Leesville rd. Lynchburg. Va. 24502

**From:** ANTHONY FORTINO  
**To:** Kathleen Abernathy, Michael Copps, KM KJMWEB, Commissioner Adelstein  
**Date:** Wed, Feb 12, 2003 7:57 PM  
**Subject:** Fwd: Preserve Line Sharing

From: Ed Hoey  
To: Kathleen Abernathy  
Date: Wed, Feb 12.2003 4:30 PM  
Subject: Line Sharing

Ma'am

As a DSL user I feel it is critical to maintain the  
status quo re: line sharing  
It is the only reason affordable high speed access is  
available.

regards  
Ed

---

Do you Yahoo!?  
Yahoo! Shopping - Send Flowers for Valentine's Day  
<http://shopping.yahoo.com>



**From:** Edward Sullivan  
**To:** Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB. Commissioner Adelstein  
**Date:** Wed, Feb 12, 2003 8:00 PM  
**Subject:** Line Sharing

Dear Commissioners and Chairman Powell,

Please do not eliminate line-sharing. I have been a Covad DSL customer for almost 3 years and the service is reliable, (1 outage because verizon gave away my pair...the VZ field techs have NO means to test for digital signals on consumer loops), the employees are very responsive and the billing is accurate and dependable.

I can say NONE of this for Verizon.

1. Their service is not reliable. My Verizon service was terminated twice because of personnel errors (TI line and DSL Line...yes in my house...I'm a geek). They also created a party line **between** my phone line and my neighbors fax line which they refused to troubleshoot because I had dial tone. I have an outstanding issue with the PUC because of this issue...my neighbor's long distance charges went on my bill and Verizon would not give me the credit.
2. Their employees are not courteous. I've had several discussions with no resolution as described above. They are very bureaucratic and have very little interest in helping their customers. I should not have to go to a third party(PUC) to resolve a billing issue. A tech once showed up at my house intoxicated and passed out on my lawn. (Fall of 2000...day strike was announced...he must have been celebrating)
3. Billing system is a MESS. Many examples...too numerous to list.

My other **less** than adequate broadband options are as follows:

1. Cable (RCN or Comcast). In addition to Covad, I have had Comcast and RCN. The quality of service is very poor. The bandwidth is variable, the systems are prone to outages, and the latency is **less** than adequate during peak times. RCN has very nice customer focused employees, but Comcast's employees are neither.
2. Satellite. Latent. Shooting signals into space does horrible things to round trip ping times and trace routes. Not very **useful** for heavy peer to peer applications.
3. Verizon DSL. My stomach aches thinking of being forced to deal with them for DSL.

I don't want to deal with Verizon for DSL. DSL is a great product...I love Covad. Please please please don't make me deal with Verizon. Keep line sharing!!!

Sincerely,

Edward Sullivan

**From:** John Erb  
**To:** Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB, Commissioner Adelstein  
**Date:** Wed, Feb 12, 2003 4:30 PM  
**Subject:** Tri Review

The abuses of the ILECs are **so** well documented (their foot dragging, obstructionism, monopolistic abuses, etc. with respect to the Telecom Act), that there can only be one reason for any of you to go along with their wish list and that is that they are buying you off with promises of campaign contributions or worse.

The CLEC industry **is** the only reason that people and businesses today aren't still forced to **use** ISDN lines at inflated prices. Let the ILECs maintain the last mile and open up access to those lines to all comers and watch how quickly investment and speedy internet access ramps up. You guys are killing the industry with the uncertainty that results from the way you play with the rules or threaten to play with the rules.

Don't be misled by the promises of the ILECs to cover the nation in fiber if only unfettered. The best predictor of how a person or corporation will behave in the future is how they have behaved in the past. The miserable record of the ILECs is there for all of you to **see**. Don't condemn the nation to ten more years like the last ten.

The US is being left behind in the broadband race, but the ILECs are not the winning horse in this race. Open up the nation's broadband pipes to all comers in a fair market. And for God's sake stay the course so the rules are clear, understandable, consistent, durable and ENFORCED.

John Erb

**From:** JTAN  
**To:** KathleenAbernathy  
**Date:** Wed, Feb 12, 2003 7:57 PM  
**Subject:** competition

eliminating line sharing will lead to less choice and competition, and higher prices for consumers and small business for broadband services.

It also would slow the penetration of broadband services across the country delaying **key** benefits that can help the economy.

**From:** maclu  
**To:** Kathleen Abernathy  
**Date:** Wed, Feb 12, 2003 9:39 PM  
**Subject:** Line sharing

Please preserve line sharing. I'm a retiree with a stake in Covad Comm.

Thank You  
William L. McElwee maclu@dejazzd.com

From: Mart Brauer  
To: KathleenAbernathy  
Date: Wed, Feb 12,2003 8:00 PM  
Subject: Please keep line sharing as is

Eliminating line sharing will lead to less choice and competition, and higher prices for consumers and small business for broadband services.

It also would slow the penetration of broadband services across the country delaying key benefits that can help the telecom sector and economy in general.

Respectfully,

Mart Brauer

**From:** Michelle Kregel  
**To:** Kathleen Abernathy  
**Date:** Wed, Feb 12, 2003 9:21 AM  
**Subject:** UNE-Platform

<<UNE-Platform Letter KathleenAbernathy.doc>>

Thank You.

Michelle Kregel  
Access One, Inc.  
LD Account Relations  
800-804-8333 ext. 949

**From:** Susan Baker  
**To:** Kathleen Abernathy  
**Date:** Wed, Feb 12.2003 9:26 AM  
**Subject:** UNE-Platform

<<UNE-Platform Letter Kathleen Abernathy.doc>>

Susan Baker  
Access One, Inc.  
820 W. Jackson  
Suite 650  
Chicago, IL 60607

From: Bob Diehl  
To: Mike Powell  
Date: Wed, Feb 12, 2003 4:29 PM  
Subject: vote delay

Commissioner Powell,

Is there anything I can do to help in your effort?

Did you see this from USTA Daily Lead?

USTA urges FCC to "Get it right" in Triennial Review Proceeding  
Late Monday, the Federal Communications Commission decided to postpone until Feb. 20 the vote on changes to its current network unbundling regulations that effectively require incumbent local exchange carriers to give competitors access to their networks at below cost rates. USTA President and CEO Walter B. McCormick Jr. said, "Since the FCC's two previous attempts to implement the unbundling provisions of the 1996 Act were thrown out by the courts, a small delay is less important than getting it right. We are confident that Chairman Powell and the Commissioners will take this time to develop a policy that will withstand judicial review, create jobs, boost investment and restore stability to the telecom industry."  
Wish he would take the time to write or call Commissioner's Martin, Copps. and Adelstein and change one of their minds.

CC: Henry R. Burkiewicz [E-mail]



From: John Hicks  
To: Mike Powell  
Date: Wed, Feb 12.2003 4:30 PM  
Subject: VOTE COMPETITION

If you really cared about American consumers you would vote to preserve line sharing. You would also make sure the regional bell companies continue to open up their networks to rivals at discounted prices. I am a small business owner with about 100 employees and I hope you decide whats best for competition and not political gain.

Thank You,  
John Hicks

visit us at <http://www.pdqparts.com>